SUPREME COURT U. S.

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. 73-1332

WILLIAM M. CHANEY,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF MICHIGAN,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN.

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Chambers v Maroney, 399 US 42, 26 L Ed 2d 419, 90 S Ct 1975 (1970) . . . .

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The Respondent, the People of the State of Michigan, pray that a Writ of Certiorari not issue to review the opinion and judgment of the Supreme Court of the State of Michigan rendered in these proceedings on the 3rd day of December, 1973.

QUESTION INVOLVED

Does the search of an automobile which has been stopped by State Police pursuant to a police radio bulletin put on the air as a result of information given to the Department of State Police by a confidential informant to the State Police who did know the confidential informant, who had dealt with the informant before, who did not know how or from where the informant obtained his

information and who did know of the informant's reliability and such information did show criminal activity, violate the 14th Amendment of the Constitution of the United States?

STATEMENT OF THE CASE.

On August 16, 1969, Captain Lawrence Hoffman in charge of the Michigan State Police intelligence Division received a call from a confidential informant known as SL-50. After talking with the confidential informant Captain Hoffman called Detective Sergeant Schwartzkopf and advised Sergeant Schwartzkopf as duty officer he could expect to receive a phone call from a reliable informant. Captain Hoffman gave Sergeant Schwartzkopf instructions on what to do if he received the right information from the informant. (Trial Court Transcript, pages 46 and 47). Sergeant Schwartzkopf did receive a call from the confidential informant and at that time contacted Captain Hoffman and advised him of the message that he received. After that, Sergeant Schwartzkopf made a telephone call to the State Police Headquarters Operations Office and gave the message to the officer on duty there. (Trial Court Transcript page 52). Detective Richard Schave testified at the trial that he had received information from the confidential informant on six (6) previous occasions and that the information was reliable that he received from SL-50, the confidential informant (Trial Transcript, page 62). The broadcast from Lansing over the State Police radio stated it was a general broadcast to all stations and all patrols to be on the lookout for a late model Chevy, black with a yellow bottom, bearing Indiana license number 98W51. The vehicle supposedly left Hammond, Indiana approximately 3:00 p.m. and was in route to Flint, Michigan with one

to three occupants in the vehicle, all of whom were supposed to be armed (Trial Transcript, page 84).

At the time he received the telphoned information, the Sergeant knew of the informer, the State Police had dealt with the informer before, did not know how or from where the informer obtained his information and did now about the reliability of the informer.

Pursuant to this information being put on the air, the Defendant was stopped as a rear seat passenger in a vehicle belonging to him. The car was being driven by a co-defendant, William T. Washam, there were also passengers in the front seat and the rear seat in addition to the two Defendants. The subjects were removed from the car and the automobile was searched. A pistol was found under the right front seat of the automobile, a pistol was found in a briefcase owned by the Defendant Chaney in the backseat, said briefcase in addition contained literature from the Ku Klux Klan, however the trial court carefully required that no mention or no information involving the Ku Klux Klan be admitted before the jury, a pistol was found in a briefcase in the trunk of the vehicle in addition to a carbine, a billy club and a gas ejecting device. The Defendant and all the other occupants of the car were arrested and in addition the driver of the car, William T. Washam was issued Department of State Police Traffic Citation Complaint No. 636680 for going 80 miles per hour in a 70 miles per hour speed zone. The ticket was filed with the 14th District Court, Division 1, however, since Mr. Washam was convicted of possession of lottery tickets in the 14th District Court, a misdemeanor, and of carrying a concealed weapon in an automobile and possession of a gas ejecting device the same as the Defendant Chaney, Mr. Washam was never required to stand trail on the speeding citation.

The Defendant was properly charged, examined and

convicted by jury of carrying a concealed weapon in an automobile and illegal possession of a gas ejecting device. The Defendant Chaney has raised the issue of illegal search and seizure at every juncture in the proceedings and even took an interlocutory appeal prior to trial to test the issue. In each case Petitioner's contention was correctly denied.

ARGUMENT.

The search of Petitioner's automobile and the resulting seizures thereafter came about by information supplied by a confidential informant who had been reliable in the past to the Michigan State Police. Petitioner claims that this reliability must be that as required by the standards set out for search warrants by the United States Supreme Court.

Respondent contends that this case is covered by the warrantless search of automobile cases as laid down by the United States Supreme Court starting with Carroll v United States, 267 US 132 continuing with Chambers v Maroney 399 US 42 and reaching its pinnacle in Adams v Williams 407 US 143. It is the contention of Respondent that Adams v Williams is dispositive of this case in that from the facts and circumstances of the case, it is selfevident that the informer's tip carried enough indicia of reliability to justify the officer's forceable stop of the Petitioner, that the initial actions of the officer were reasonable and that the arrest and search were lawful. It would have been unreasonable for him not to have searched for weapons.

REASONS WHY CERTIORARI SHOULD NOT BE GRANTED.

This is not a search warrant case and the rulings and

law applicable thereto are not significant. The United States Supreme Court beginning with Carroll continuing with Chambers and with Adams have clearly elucidated standards for warrantless searches of automobiles. The facts and circumstances of this case clearly fit those standards.

CONCLUSION.

This Court should not grant certiorari to set standards upon which to judge the validity of the arrest, because it already has promulgated such standards.

Respectfully submitted,

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